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BEFORE THE ARIZONA CORPORATION COMMISSION
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KRISTIN K. MAYES

GARY PIERCE

PAUL NEWMAN

SANDRA D. KENNEDY

BOB STUMP

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AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
SULPHUR SPRINGS VALLEY ELECTRIC
COOPERATIVE, INC. FOR A HEARING TO
DETERMINE THE FAIR VALUE OF ITS
PROPERTY FOR RATEMAKING PURPOSES,
TO FIX A JUST AND REASONABLE
RETURN THEREON, TO APPROVE RATES
DESIGNED TO DEVELOP SUCH RETURN
AND FOR RELATED APPROVALS.

DOCKET NO. E-01575A-08-0328

IN THE MATTER OF THE APPLICATION OF
SULPHUR SPRINGS VALLEY ELECTRIC
COOPERATIVE, INC. FOR AN ORDER
INSTITUTING A MORATORIUM ON THE
NEW CONNECTIONS TO THE V-7 FEEDER
LINE SERVING THE AREAS OF
WHETSTONE, RAIN VALLEY, ELGIN,
CANELO, SONOITA, AND PATAGONIA,
ARIZONA.

DOCKET NO. E-01575A-09-0453

**STAFF'S NOTICE OF FILING
DIRECT TESTIMONY**

Staff of the Arizona Corporation Commission ("Staff") hereby files the Direct Testimony of
Staff Witness Elijah Abinah in the above-referenced matter.

RESPECTFULLY SUBMITTED this 16th day of March, 2010.

Arizona Corporation Commission
DOCKETED

MAR 16 2010

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3 16th day of March, 2010 with:

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Roseann Osorio

BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES

Chairman

GARY PIERCE

Commissioner

PAUL NEWMAN

Commissioner

SANDRA D. KENNEDY

Commissioner

BOB STUMP

Commissioner

IN THE MATTER OF THE APPLICATION OF)
SULPHUR SPRINGS VALLEY ELECTRIC)
COOPERATIVE, INC. FOR APPROVAL OF A)
RATE INCREASE)

DOCKET NO. E-01575A-08-0328

IN THE MATTER OF THE APPLICATION OF)
SULPHUR SPRINGS VALLEY ELECTRIC)
COOPERATIVE, INC. FOR AN ORDER)
INSTITUTING A MORATORIUM ON NEW)
CONNECTIONS TO THE V-7 FEEDER LINE)
SERVING THE WHETSTONE, RAIN VALLEY)
ELGIN, CANELO, SONOITA, AND)
PATAGONIA, ARIZONA AREAS)

DOCKET NO. E-01575A-09-0453

DIRECT

TESTIMONY

OF

ELIJAH O. ABINAH

ASSISTANT DIRECTOR

UTILITES DIVISION

ARIZONA CORPORATION COMMISSION

MARCH 16, 2010

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	2
<i>Easement</i>	5
<i>Alternatives</i>	9
<i>Comment on the Third Party Independent Report</i>	13

INTRODUCTION

Q. Please state your name and business address.

A. My name is Elijah O. Abinah. My business address is 1200 West Washington Street, Phoenix, Arizona, 85007.

Q. Where are you employed and in what capacity?

A. I am employed by the Utilities Division ("Staff") of the Arizona Corporation Commission ("ACC" or "Commission") as the Assistant Director.

Q. How long have you been employed with the Utilities Division?

A. I have been employed with the Utilities Division since January 2003.

Q. Please describe your educational background and professional experience.

A. I received a Bachelor of Science degree in Accounting from the University of Central Oklahoma in Edmond, Oklahoma. I also received a Master of Management degree from Southern Nazarene University in Bethany, Oklahoma. Prior to my employment with the ACC, I was employed by the Oklahoma Corporation Commission for approximately eight and a half years in various capacities in the Telecommunications Division.

Q. What are your current responsibilities?

A. As the Assistant Director, I review submissions that are filed with the Commission and make policy recommendations to the Director regarding those filings.

1 **Q. What is the purpose of your testimony?**

2 A. The purpose of my testimony is to provide policy recommendations in response to Sulphur
3 Springs Valley Electric Cooperative, Inc.'s ("SSVEC" or "Company") Motion to Amend
4 Commission Decision No. 71274. The petition to amend Decision No. 71274 is pursuant
5 to A.R.S. §40-252 and related authorization.

6
7 **Q. Are you providing any technical recommendations?**

8 A. No.
9

10 **BACKGROUND**

11 **Q. Can you please provide a brief background?**

12 A. Yes. On June 30, 2008, SSVEC filed an application for a rate increase with the
13 Commission. SSVEC is a member-owned, non-profit cooperative that provides electric
14 distribution services to approximately 51,000 customers in Cochise, Santa Cruz, Pima and
15 Graham Counties, Arizona.

16
17 In addition to the rate increase in its application, SSVEC presented evidence and argued
18 that the construction of a 69 kV transmission line serving the Sonoita area, known as the
19 Sonoita Reliability Project, is needed to ensure reliable service.

20
21 On September 8, 2009, the Commission issued Decision No. 71274. Among other things,
22 the Decision states that:

23
24 *"Sulphur Springs Valley Electric Cooperative, Inc, as a matter*
25 *compliance, shall docket by December 31, 2009, a feasibility study*
26 *prepared by an independent third party that includes alternatives*
27 *(including use of distributed renewable energy) that could mitigate the*
28 *need for construction of SSVEC in a proposed 69kV project."*
29

1 *"Sulphur Springs Valley Electric Cooperative, Inc. shall not commence*
2 *construction of the referenced 69kV line until the public has had an*
3 *opportunity to review and comment on the report and until further Order*
4 *of the Commission."*
5

6 On December 31, 2009, in compliance with Decision No. 71274, SSVEC filed the
7 independent study with the Commission.

8
9 On January 14, 2010, SSVEC filed in this docket, a petition to amend Decision No. 71274
10 pursuant to ARS §40-252 and for related authorization.

11
12 **Q. Can you please briefly describe SSVEC's request?**

13 A. Yes. The Company petitioned the Commission to issue an order amending its previous
14 Decision dated September 8, 2009, regarding the authorization for SSVEC to construct the
15 69 kV sub-transmission power line ("69 kV line"). SSVEC requests that it be allowed to
16 immediately begin construction of the 69 kV line.

17
18 In addition, SSVEC requests that its petition be expeditiously heard. The petition also
19 seeks to have the Commission vacate its order requiring the Company to conduct forums
20 allowing public input into the Feasibility Study and requests immediate construction of the
21 69 kV line.

22
23 **Q. What was the reason cited by SSVEC for its request?**

24 A. SSVEC asserts that the independent study confirms the evidence presented by SSVEC in
25 the rate case docket that the expeditious construction of the 69 kV line is the only proven
26 and viable solution from a technical and economic standpoint to alleviate the performance,
27 reliability and capacity constraint of the existing V-7 feeder line.
28

1 **Q. Did Staff review the independent third party feasibility study?**

2 A. Yes. Staff will discuss its findings and recommendations later in this testimony.

3
4 **Q. What are Staff's recommendations?**

5 A. Staff recommends the following:

- 6
- 7 • Consistent with the prior Administrative Law Judge's recommendation, Staff believes
8 that the Company has demonstrated the need for the line. Therefore, Staff
9 recommends that the Commission grant the Company's request to amend Decision
10 No. 71274, which will allow the Company to commence with the construction of the
11 line;
 - 12 • Staff recommends that SSVEC, as stated in its request, file a Motion to Withdraw its
13 Motion for Reconsideration, and the Application for Moratorium;
 - 14 • Staff recommends that the Company implement the recommendation of the
15 independent consultant, to modify employee schedules as appropriate to help mitigate
16 the length of outages (page 14-15 of the independent report);
 - 17 • Staff recommends that the Company file, as a compliance item in this docket, a
18 detailed plan of how the Company will encourage and educate its customers on the use
19 of renewable energy;
 - 20 • Staff further recommends that the Company educate and encourage its customers on
21 measures such as energy efficiency; and,
 - 22 • Staff further recommends that the Commission deny the Company's request to vacate
23 the requirement that the Company first conduct public forums before the Commission
24 will authorize SSVEC to construct the line.
- 25

1 **Q. Does Staff have additional issues that need to be addressed?**

2 A. Yes. In addition to the Company's request, Staff intends to address the following:

- 3
- 4 1. The issue of easement as it relates to the current V-7 25 kV feeder line
- 5 transmission line.
- 6 2. The issue raised on lines 16-20 on page 48 of Commission Decision No. 71274
- 7 (which includes alternative resources in order to mitigate the need for the 69 kV
- 8 line).
- 9 3. The third party independent feasibility study.
- 10 4. Action that the Company needs to implement to mitigate the length of the outage.
- 11

12 *Easement*

13 **Q. Can you please briefly explain the type of easement at issue?**

14 A. Yes. Based on the response to STF1.1, SSVEC claims that SSVEC's rights to the existing

15 V-7 25 kV feeder are held under an easement by prescription, which is established by

16 operation of law resulting from general legal principles.

17

18 **Q. Are you providing a legal opinion or recommendation?**

19 A. No. Staff believes the issue of what constitutes an easement, and what type of easement is

20 applicable should be addressed in detail through legal briefs and/or argument as is

21 necessary.

22

1 **Q. Does Staff believe that the Company has the ability to upgrade the existing V-7 25 kV**
2 **feeder?**

3 A. Yes. Staff believes that modification and upgrade to the existing V-7 25 kV line is
4 technically feasible. However, Staff does not believe it will be cost effective, nor viable to
5 do so for the following reasons:

- 6
- 7 1. Number of property owners, including governmental agencies such as Arizona
 - 8 State Land involved in the easement;
 - 9 2. Cost to obtain right of way;
 - 10 3. Risk involved in modifying the easement (such as litigation risk); and,
 - 11 4. The amount of time and money that will be expended.
- 12

13 **Q. Please describe what changes can be made to the easement.**

14 A. According to the Company, the existing V-7 25 kV feeder line could be upgraded by
15 changing the conductors where possible, but by doing so, the Company would have to
16 replace poles and widen the easement. Changes which would be required include the
17 widening of the easement to 50 feet to accommodate the taller replacement poles and the
18 safety requirements for clearances. Additionally, there would be material changes with
19 the addition of four more wires for the 69 kV line and the fiber optic cable for the Smart
20 Grid Project.

21

22 The Company believes that replacing the poles and widening the easement would be an
23 impermissible burden on the existing easement.

24

1 **Q. Does Staff believe that changing the conductors where possible would constitute a**
2 **modification to the easement?**

3 A. Yes. As stated above, changing the conductors where possible would result in pole
4 replacement and widening of the easement. This would require the Company to initiate a
5 discussion with property owners and other agencies in an attempt to modify the easement.

6
7 **Q. How many property owners, governmental agencies and other agencies will be**
8 **involved in the discussion?**

9 A. Based on the response to Staff's data request, there are 98 private property owners,
10 Arizona State Land and Las Cienegas National Conservation Area.

11
12 **Q. What is the probability that SSVEC will successfully negotiate and receive easements**
13 **from all the property owners including Arizona State Land and Las Cienegas**
14 **National Conservation Area?**

15 A. Staff cannot predict the outcome of such negotiations. However, based on the response
16 from Staff's data request, the Company states that the probability that SSVEC would
17 receive easements for all 98 parcels is slim at best. Therefore, an Eminent Domain or
18 condemnation action would likely be required for SSVEC to finalize the remainder of the
19 parcels.

20
21 **Q. Has the Company made any attempt to meet with the property owners?**

22 A. Yes. SSVEC claims that at a community information session, the Company met with
23 several of the landowners along the existing V-7 line, at their request, when they heard of
24 the suggestions by the Sonoita opposition to upgrade the existing line to 69 kV. These
25 landowners were adamant they would not grant any new easements for the new line, and
26 would challenge SSVEC if such a modification was attempted.

1 Further, at the meeting, according to SSVEC, it was stated that some landowners had
2 purchased their property upon the expectation that the 69 kV line would be constructed in
3 SSVEC's existing easement on the Babocomari Land Grant, and modifying that plan
4 would potentially expose SSVEC to litigation from those landowners.
5

6 **Q. Are there other issues relating to the easements?**

7 A. Yes. Staff inquired of the Company as to the due diligence performed in determining the
8 limitation of the prescriptive easement. In addition, Staff inquired whether SSVEC has
9 contacted the property owners regarding the possibility of modifying or attempting to
10 obtain appropriate grants of easement.
11

12 **Q. What was the Company's response?**

13 A. According to the Company, the requirements for the Arizona State Land Department
14 would be to file applications for Rights of Way, which would require the inclusion of full
15 boundary and cultural surveys. The Las Cienegas National Conversation Area would
16 require a full boundary survey, an Environmental Impact Statement, and other related
17 applications to satisfy the Federal permitting requirements. The Company estimated time
18 frames for application processing would be a minimum of 2-3 years.
19

20 In addition, the Company explained that the private property rights are more complicated
21 because of the limitations of the prescriptive rights. According to SSVEC, the prescriptive
22 easement is based upon hostile occupation. Therefore, if SSVEC were to begin
23 discussions with landowners regarding permission to perfect or change the easement, there
24 would be a possibility of losing the prescriptive right due to the effects under permissive
25 use.
26

1 According to SSVEC, in order to fully perfect the prescriptive rights, SSVEC would be
2 required to file a Quiet Title Action against all private landowners on the V-7. This would
3 only solidify the record of the prescriptive use right. If SSVEC then wished to upgrade to
4 an express, or written, easement it would be able to go to each landowner and negotiate
5 for the upgraded rights.

6
7 **Q. Has Staff quantified the cost of negotiating the right of way?**

8 A. The Company states that the costs of the applications, surveys, environmental studies, and
9 easement payments are estimated at \$1.8 – 2.2 million, which does not include the cost of
10 any legal actions.

11
12 **Q. Does Staff have additional comment relating to the easement?**

13 A. Yes. Based on the conversation with the Company and response to data request, although
14 Staff believes that upgrading the existing V-7 25 kV transmission line is technically
15 feasible, Staff believes it is not viable. Because of the present need for the improvements
16 to service in the area, and the prospect of lengthy condemnation proceedings and
17 Regulatory approval processes, this alternative does not adequately mitigate the current
18 need for an additional 69 kV line.

19
20 *Alternatives*

21 **Q. Does Staff believe that there are alternative resources, which could mitigate the need**
22 **for the line?**

23 A. Yes. Staff believes that there are alternatives. However, those alternatives are not viable
24 either due to timing issues, cost effectiveness, other environment concerns and reliability.

25

1 **Q. Can you please describe those alternatives?**

2 A. Yes. From Staff's point of view, Staff believes the following alternatives are available to
3 the Company.

- 4
- 5 1. The Company can construct its own generating plant such as nuclear, gas, bio-
 - 6 diesel within the load pocket;
 - 7 2. The Company can purchase a generating plant from a third party such as a
 - 8 merchant generator;
 - 9 3. The Company can enter into a Power Purchase Agreement ("PPA") with another
 - 10 energy provider;
 - 11 4. The Company can contract with other electric generating companies such as UNS
 - 12 Electric;
 - 13 5. The Company can institute energy saving programs such as energy efficiency; and,
 - 14 6. The Company can utilize renewable resources such as solar, wind etc.
- 15

16 **Q. What are Staff's recommendations on Alternative 1 (construction of a power plant**
17 **such as nuclear, gas or bio-diesel)?**

18 A. Staff is not recommending that the Company construct its own generating plant station.

19

20 **Q. Why is Staff recommending against the construction of a power plant?**

21 A. Although Staff believes this is a viable option, Staff is recommending against construction
22 for the following reasons:

- 23
- 24 • The Company is not in the business of generating electricity; the Company is in
 - 25 the business of distribution;
 - 26 • The cost of building a power plant today outweighs the benefit; and,

- The process of obtaining approval for construction is lengthy.

Q. Did the Company at one time contemplate building its own generating plant?

A. Yes. According to the Company's responses to Staff's data request, at one time SSVEC considered installing its own generation, but has since determined that this generation is not appropriate for SSVEC at this time.

Q. What was SSVEC's rationale for such a decision not to procure its own generating plant?

A. SSVEC believes that the best choices for increasing its power supply, at present, is by participating with other cooperatives, municipalities, and Indian tribes in a combined purchase which gives the group lower prices and economies of scale that they would not normally be able to obtain. The Company believes this could be achieved through the group known as the Southwest Purchase Power Resources group or SPPR.

Q. Has Staff quantified the cost of constructing a power plant?

A. According to the Company, at the time it was considering its own generation, a 40 MW gas-fired peaking unit would have cost approximately \$50 million dollars. Such a facility, according to the Company, would have to be located near the Company's primary load center in the Sierra Vista area, which would have given it access to high pressure gas lines, existing transmission and sub-transmission facility (including a bio-diesel facility) in the Affected Areas for many reasons including, but not limited to, the lack of transmission for the excess power that would need to be exported in to other areas of the SSVEC system. SSVEC would still need to build the 69 kV line (or a bigger transmission line) to transport the power generated from such a facility to the affected areas. SSVEC can solve the capacity and reliability problems in the Affected Areas through the construction of the

1 69 kV line and substation for approximately \$13 million without the necessity of spending
2 millions of additional dollars on a generating facility that would require construction of
3 the same 69 kV line (or an even larger transmission line) anyway. Additionally, the added
4 permitting and construction time for this alternative do not adequately resolve the current
5 service issues facing SSVEC.

6
7 **Q. What is Staff's recommendation as it relates to a purchase of a power plant from a**
8 **merchant?**

9 A. Staff does not believe there is a plant for sale in SSVEC's service area. Staff notes that in
10 the event that an appropriate generating plant were for sale that the underlying issue of
11 moving the power into the affected areas would still necessitate improved transmission
12 capabilities.

13
14 **Q. Can SSVEC enter into a PPA?**

15 A. Yes. Staff recommends that the Company consider entering into a PPA where it is
16 technically and financially feasible. In addition, if and when it is technically and
17 financially feasible, the Company should engage companies such as UNSE with the
18 possibility of negotiation of a PPA.

19
20 **Q. Can the Company utilize renewable energy?**

21 A. Yes. Staff believes that the Company can and should utilize renewable energy. The
22 Company can install a large utility scale solar project and also encourage distributed
23 energy in the Affected Area. Again, Staff would note that the adequacy of service issues
24 present in the Affected Areas will still require moving generated electricity to the load.
25 As such, necessary improvements to transmission within the Affected Area will not be
26 avoided by installing new generation alone.

1 **Q. Does Staff believe there is enough distributed renewable energy today to mitigate the**
2 **need for the line?**

3 A. No. Staff believes that distributed energy can help over time as participation increases.
4 However, the present service issues in the Affected Areas will not be resolved in a timely
5 manner by distributed generation.
6

7 **Q. What is Staff's recommendation?**

8 A. Staff recommends that the Company provide the Commission a detailed plan on how to
9 encourage its customers to take advantage of distributed energy. In addition, Staff
10 recommends that the Company propose a detailed method on how the Company will
11 promote distributed energy.
12

13 ***Comment on the Third Party Independent Report***

14 **Q. Did Staff inquire as to whether SSVEC found any recommendations in the Study**
15 **that would facilitate a review of its procedures regarding reducing outage time in the**
16 **Affected Areas?**

17 A. Yes.
18

19 **Q. What was the recommendation of the Independent Consultant?**

20 A. The Independent Study recommends on pages 14-15, that supplementing crews or
21 extending coverage during the periods of high outage frequency. If SSVEC has not
22 already implemented such measures, they may prove to be cost effective for reducing
23 outages on the V-7 feeder.
24

1 **Q. What was the Company's response?**

2 A. Based on the response to Staff's data request, SSVEC stated that currently the Company
3 has doubled its service and on-call crews during these periods from regular staffing levels,
4 and extended its operating coverage through split hour shifts.

5
6 In addition, SSVEC claims that although Navigant did not analyze SSVEC's current
7 procedures, its recommendation is common in the industry, and SSVEC has implemented
8 this recommendation. Also, SSVEC stated that the Company has investigated the
9 possibility of 'staffing' the Affected Area with Service personnel. The Company believes
10 that if those changes were to be implemented (staffing the Affected Area with service
11 personnel) those staff members would have to be relocated, and the Company would have
12 to acquire a number of properties large enough to accommodate equipment, supplies, and
13 vehicles. Based on these factors, SSVEC does not believe the costs justify the additional
14 facilities.

15
16 **Q. What is Staff's recommendation?**

17 A. Staff recommends that the Company revisit this issue and file the result of its investigation
18 as a compliance item in this docket, no later than June 30, 2010.

19
20 **Q. What are Staff's overall recommendations?**

21 A. From a technical perspective Staff has review the actions taken by the Company and
22 found those actions to be reasonable. Based on the above, Staff recommends the
23 following:

- 24
25 • Consistent with the prior Administrative Law Judge's recommendation, Staff believes
26 that the Company has demonstrated the need for the line. Therefore, Staff

1 recommends that the Commission grant the Company's request to amend Decision
2 No. 71274, which will allow the Company to commence with the construction of the
3 line;

- 4 • Staff recommends that SSVEC, as stated in its request, file a Motion to Withdraw its
5 Motion for Reconsideration, and the Application for Moratorium;
- 6 • Staff recommends that the Company implement the recommendation of the
7 independent consultant, to modify employee schedules as appropriate to help mitigate
8 the length of outages (page 14-15 of the independent report);
- 9 • Staff recommends that the Company file, as a compliance item in this docket, a
10 detailed plan of how the Company will encourage and educate its customers on the use
11 of renewable energy;
- 12 • Staff further recommends that the Company educate and encourage its customers on
13 measures such as energy efficiency; and,
- 14 • Staff further recommends that the Commission deny the Company's request to vacate
15 the requirement that the Company first conduct public forums before the Commission
16 will authorize SSVEC to construct the line.

17
18 **Q. Does this conclude your Direct Testimony?**

19 **A.** Yes it does.